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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,728

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EXAMINER

GRAHAM, GARY K

ART UNIT

PAPER NUMBER

3723

MAIL DATE

DELIVERY MODE

08/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/519,728	Applicant(s) HEINRICH ET AL.	
	Examiner Gary K. Graham	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 11, 12 and 14-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20041228</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of the figure 3 species in the reply filed on 22 May 2008 is acknowledged.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, line 3, there is no antecedent basis for "the parts".

In claim 5, line 4, there is no antecedent basis for "its back".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoebrechts et al (US patent 4,118,825).

The patent to Hoebrechts discloses the invention as is claimed, including a wiper blade (fig.1) having a metal connecting part (18) mounted on a carrying element (20) and has a pivot pin (36) of a joint whose free end is connected to a wiper rod (12). The joint includes a cap (46) which covers and is attached or locked to the connecting part (18). The cap secures the blade and rod during operation, at least as far as defined. The cap defines a pocket (74,76) facing the wiper rod and windshield (see fig.6). A spoiler is defined on the carrying element (note tapered side walls of the carrying element) and extends on both sides of the connecting part as there is a carrying element on both sides of the connecting part. The spoiler has an oncoming flow side facing the wiper rod (fig.1). The pivot pin is rotatably mounted in the connecting part (18) which is designed as a sheet metal claw and attached at the ends thereof (not numbered but clearly shown in fig.1 as is conventional) to the carrying elements (20) by catch noses. The sheet metal claw has side faces (28,30) on longitudinal sides thereof and are connected by a split bearing tube defined by components (70,72, see fig.3), in which the pivot pin is rotatably received.

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Claims 1, 3, 4 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Rezzonico (DE patent 10036135).

The patent to Rezzonico discloses the invention as is claimed, including a wiper blade (figs.1,2) having a connecting part (4.2) mounted on a carrying element (6) and has a pivot pin (3) of a joint whose free end is connected to a wiper rod (2). The joint includes a cap (4.1) which covers and is attached or locked to the connecting part (4.2). The cap secures the blade and rod during operation, at least as far as defined. A spoiler (7) is defined on the carrying element and extends on both sides of the connecting part. The spoiler has an oncoming flow side facing the wiper rod (fig.2).

With respect to claim 10, as the wiper rod extends on all sides of the pin, it is considered to extend past the pin. Note the pocket defined between part (14) and the remainder of the cap (4.1) that receives part of the wiper rod that extends past the pin.

Claims 1-4 and 10 are rejected under 35 U.S.C. 102(a) as being anticipated by Breesch (WO patent 02/40329). Note US patent 7,293,321 which is based on the WO patent and is in English.

The patent to Breesch discloses the invention as is claimed, including a wiper blade (10, figs.1,6,7) having a connecting part (32) mounted on a carrying element (42) and has a pivot pin (46) of a joint whose free end is connected to a wiper rod (12). The joint includes a cap (100) which covers and is attached or locked to the connecting part (32). The cap secures the blade and rod during operation, at least as far as defined, since Breesch discloses that it may be necessary to couple the arm to the connecting part prior to cap locking. The cap defines a pocket facing the wiper rod and windshield (see fig.6). A spoiler (50) is attached to the carrying element (42, see fig.7) and

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extends on both sides of the connecting part. The spoiler has an oncoming flow side facing the wiper rod (fig.8).

With respect to claim 10, as the wiper rod extends on all sides of the pin, it is considered to extend past the pin. Note figure 6, wherein the rod is shown as within a “pocket” of the cap.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rezzonico (DE patent 10036135).

The patent to Rezzonico discloses all of the above recited subject matter with the exception of the pivot pin being welded to the wiper rod.

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While Rezzonico does not disclose welding of the pivot pin to the wiper rod, to do so would have been obvious to one of skill in the art. The pivot pin must be secured to the wiper rod by some means to prevent inadvertent separation or device failure. As such, it would have been obvious to one of skill in the art to employ any well known securement means such welding, bonding, press-fit, etc to provide a secure assembly. Use of a well known technique to secure the pivot pin obtains the predictable result of enhanced structural integrity.

Allowable Subject Matter

Claims 7-9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/
Primary Examiner, Art Unit 3723

GKG
14 August 2008